

### **REMARKS**

This Response is in reply to the Office Action dated August 26, 2008, which withdrew the previously-communicated indication of allowable subject matter and rejected claims 1, 2, 4-8, 11-13, 15-17, 19-20, 56-60 and 73. The amendments above and the remarks that follow address all of the points raised in the Office Action and Applicants submit that all pending claims are in condition for allowance.

#### **I. Amendments to the Claims**

Claims 1, 2, 4-8, 11-13, 15-17, 19-20, 56-60 and 73 have been cancelled by the instant amendment and new claims 74-122 have been introduced. Among other things, the new claims unwind previous amendments that were made in light of the Examiner's previously-stated indication of allowable subject matter, which he has now withdrawn. The new claims patentably distinguish over the art of record.

Amendment and/or cancellation of claims should in no way be construed as acquiescence to or agreement with the Examiner's prior rejections and Applicants reserve all rights to re-introduce the previously presented claims in this or subsequent applications.

All of the new claims fall within the scope of the previously elected Group I ("Apparatus comprising an applicator with at least one protuberance and at least one optical radiation source."). No new matter is added.

Claim 74 recites an apparatus for treatment of skin that comprises an applicator having at least one protuberance comprising a skin-contacting surface, and at least one optical radiation source coupled to said applicator in a manner so as to, when activated, deliver optical radiation through said skin-contacting surface to skin in contact with said skin-contacting surface. The at least one protuberance is shaped to apply a compressive force to the skin during use so as to extend at least partially below the skin surface to deliver said optical radiation to a target area.

Support for claim 74 can be found, among other places, in the claims as previously presented and in specification as filed at p. 3, line 15, p. 6, lines 15-17 and p. 31, lines 10-15.

Dependent claims 75 – 87 correspond, with minor changes, to claims 2, 4, 6, 7, 8, 11, 12, 13, 57, 58, 59, 60 and 20, respectively, as previously presented in this case. Dependent claims 87 – 94 find support, among other places, in the claims as previously presented and the specification as filed as indicated in the following chart:

<b>Claim</b>	<b>Example of Supporting Disclosure</b>
Claim 87	P. 3, line 13.
Claim 88	P. 27, lines 12-15.
Claim 89	P. 31, line 13 and Figs. 5, 13.
Claim 90	P. 8, lines 19-26.
Claim 91	P. 31, lines 1-30.
Claim 92	Claim 17 as previously presented.  P. 7, lines 1-78; p. 7, line 30 to p. 8, line 17; p. 28, lines 9-18; p. 30, lines 28-30.
Claim 93	Claim 17 as previously presented.  P. 7, lines 1-78; p. 7, line 30 to p. 8, line 17; p. 28, lines 9-18; p. 30, lines 28-30.
Claim 94	Claim 1 as previously presented.  P. 8, lines 19-26.

New claim 95 recites a method of treatment of skin that comprises applying a compressive force to a skin surface with at least one protuberance extending from an applicator, the at least one protuberance shaped to extend at least partially below the skin surface upon application of said compressive force; and delivering optical radiation to a target area of the skin through the at least one protuberance in contact with the skin surface.

Claims 96 and 97 depend from claim 95. Support for claims 95-97 can be found, among other places, in the claims as previously presented and in the specification as filed at p. 3, line 15, p. 6, lines 15-17 and p. 31, lines 1-30.

While claims 95-97 are method claims and the other claims of Group I are apparatus claims, it is believed that the method claims are appropriately examined with Group I and that a single search for all claims suffices.

New claim 98 recites an apparatus for treatment of skin that comprises an applicator having at least one protuberance comprising a skin-contacting surface, and at least one optical radiation source coupled to said applicator in a manner so as to, when activated, deliver optical radiation through said skin-contacting surface to skin in contact with said skin-contacting surface. The at least one protuberance is adapted to abrade or clean said skin as the applicator is moved thereover by removing any of at least a portion of said skin, at least a portion of bacteria, at least a portion of residue, or at least a portion of surface obstructions on said skin.

Support for claim 98 can be found, among other places, in the claims as previously presented and in the specification as filed at p. 5, lines 23-24; p. 7, lines 5-7 and 26-28; p. 24 line 19 to p. 25, line 16; and p. 28, lines 26-30.

Dependent claims 99 – 111 correspond, with minor changes, to claims 2, 4, 5, 6, 7, 8, 11, 12, 13, 57, 58, 59, and 20, respectively, as previously presented in this case. Dependent claims 112 – 122 find support, among other places, in the claims as previously presented and the specification as filed as indicated in the following chart:

<b>Claim</b>	<b>Example of Supporting Disclosure</b>
Claim 112	P. 5, lines 23-24; p. 24, lines 29-31; p. 28, lines 26-30.
Claim 113	Claim 20 as previously presented.  P. 3, line 13; p. 12, line 1.
Claim 114	P. 27, lines 12-15

Claim 115	P. 33, lines 17-20
Claim 116	P.28, lines 27-30
Claim 117	P. 31, line 13 and Figs. 5, 13.
Claim 118	P. 8, lines 19-26.
Claim 119	P. 31, lines 1-30.
Claim 120	P. 28, lines 26-30.
Claim 121	Claim 17 as previously presented.  P. 7, lines 1-78; p. 7, line 30 to p. 8, line 17; p. 28, lines 9-18; p. 30, lines 28-30.
Claim 122	Claim 17 as previously presented.  P. 7, lines 1-78; p. 7, line 30 to p. 8, line 17; p. 28, lines 9-18; p. 30, lines 28-30.

## **II. Claim Rejections under 35 U.S.C. § 103**

In the Office Action mailed August 26, 2008, the Examiner rejected previously-presented claims 1, 2, 4-8, 11-13, 15-17, 19-20, 56-60 and 73 under 35 U.S.C. §103(a) as being unpatentable over various references. Applicants traverse these rejections and reserve their rights to address the rejections in future prosecution. However, Applicants submit that the newly presented claims are patentably distinguishable over the cited references.

### **A. Claim 74**

Independent claim 74 recites an apparatus for treatment of skin that comprises an applicator having at least one protuberance comprising a skin-contacting surface, and at least one optical radiation source coupled to said applicator in a manner so as to, when activated, deliver optical radiation through said skin-contacting surface to skin in contact with said skin-contacting surface. The at least one protuberance is shaped to apply a compressive force to the skin during

use so as to extend at least partially below the skin surface to deliver said optical radiation to a target area.

None of the cited references (alone or in combination) teach or suggest, *inter alia*, an apparatus for treatment of skin that comprises an applicator with at least one protuberance that is *shaped to apply a compressive force to the skin during use so as to extend at least partially below the skin surface to deliver said optical radiation to a target area*, as recited in claim 74.

For at least this reason, claim 74 is allowable.

**B. Claims 75-94**

Each of claims 74 – 94 depends, directly or indirectly, from claim 74 and is allowable for at least the reason stated above in connection with that claim.

**C. Claim 95**

Independent claim 95 recites a method for treatment of skin that comprises applying a compressive force to a skin surface with at least one protuberance extending from an applicator, the at least one protuberance shaped to extend at least partially below the skin surface upon application of said compressive force, and delivering optical radiation to a target area of the skin through the at least one protuberance in contact with the skin surface.

None of the cited references (alone or in combination) teach or suggest, *inter alia*, a method for treatment of skin that comprises *applying a compressive force to a skin surface with at least one protuberance extending from an applicator, the at least one protuberance shaped to extend at least partially below the skin surface upon application of said compressive force*, and delivering optical radiation to a target area of the skin through the at least one protuberance in contact with the skin surface, as recited in claim 95.

For at least this reason, claim 95 is allowable.

**D. Claims 96 – 97**

Each of claims 96 – 97 depends from claim 95 and is allowable for at least the reason stated above in connection with that claim.

**E. Claim 98**

Independent claim 98 recites an apparatus for treatment of skin that comprises an applicator having at least one protuberance comprising a skin-contacting surface, and at least one optical radiation source coupled to said applicator in a manner so as to, when activated, deliver optical radiation through said skin-contacting surface to skin in contact with said skin-contacting surface. The at least one protuberance is adapted to abrade or clean said skin as the applicator is moved thereover by removing any of at least a portion of said skin, at least a portion of bacteria, at least a portion of residue, or at least a portion of surface obstructions on said skin.

None of the cited references (alone or in combination) teach or suggest, *inter alia*, an apparatus for treatment of skin that comprises an applicator with at least one protuberance that is *adapted to abrade or clean said skin as the applicator is moved thereover by removing any of at least a portion of said skin, at least a portion of bacteria, at least a portion of residue, or at least a portion of surface obstructions on said skin*, as recited in claim 98.

For at least this reason, claim 98 is allowable.

**F. Claims 99 – 122**

Each of claims 99 – 122 depends, directly or indirectly, from claim 98 and is allowable for at least the reason stated above in connection with that claim.

**CONCLUSION**

In summary, the above-identified patent application has been amended and reconsideration is respectfully requested for all the reasons set forth above. The Applicants kindly request that the Examiner telephone the undersigned representative to discuss any remaining issues if the Examiner believes doing so would expedite matters.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 141449, under Order No. 105090-0129.

Respectfully submitted,

NUTTER McCLENNEN & FISH LLP

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/Joshua T. Matt/

Joshua T. Matt

Registration No.: 55,435

Attorney for Applicants

World Trade Center West

155 Seaport Boulevard

Boston, MA 02210-2604

Tel: (617) 439-2651

Fax: (617) 310-9651